

within the Commission's discretion, and Tate's testimony should be stricken, since it is unrelated to the stated purpose of this Docket.

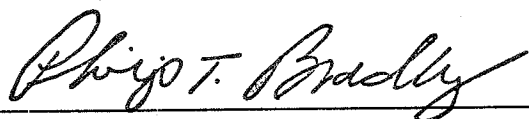
We agree with BellSouth. It is clear to us that Tate's testimony is totally unrelated to the stated purpose of this Docket, which is to examine "guidelines" under S.C. Code Section 58-9-576 (Supp.1999). We therefore hold that Tate's testimony is irrelevant, and grant BellSouth's Motion to Strike.

Also, AT&T has moved to strike certain portions of the direct and rebuttal testimony of BellSouth's witness Alphonso Varner. AT&T alleges that Varner's testimony is simply a recitation of his interpretation of statutory provisions including a "deducement of legislative intent without reference to any source of information other than the plain language of the statute." AT&T further states that Varner's testimony is at best legal argument which should be left to counsel. Lastly, AT&T argues that Varner is expressing an opinion on the ultimate issue, which he is not allowed to do under the South Carolina Rules of Evidence. BellSouth has responded to the Motion by noting that Varner says at the beginning of his testimony that he is not a lawyer, but that he has years of regulatory experience and is qualified accordingly to express the opinions that he does in this case. Further, BellSouth notes that South Carolina Rule of Evidence 704 allows opinions to be expressed on the "ultimate issue" in the case. BellSouth also states that, at most, AT&T is attacking the weight to be given Varner's testimony, and by implication, not its admissibility. BellSouth further states that this Commission can judge Varner's credibility, and afford that testimony whatever weight this Commission deems appropriate.

Again, we agree with BellSouth. We believe that AT&T's objections go the weight rather than the admissibility of Varner's testimony. Varner readily admits that he is not an attorney, but he also states that he has years of regulatory experience that allow him to form his opinions in this case. We agree with BellSouth's response in this matter, and believe that we can judge Varner's credibility and give his testimony whatever weight we deem appropriate in our deliberations in this case. Further Rule 704, SCRE allows Varner to state his opinion, even if it encompasses an "ultimate issue." AT&T's Motion to Strike is denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)